

Senate File 469 - Introduced

SENATE FILE 469
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO SSB 1165)

A BILL FOR

1 An Act relating to the regulation by counties and cities of
2 continuing nonconforming uses of manufactured, modular, and
3 mobile homes and site-built dwelling units.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 335.3, subsection 2, Code 2021, is
2 amended to read as follows:

3 2. a. ~~When~~ Except as provided in paragraph "b", when there
4 is a replacement of a preexisting manufactured, modular, or
5 mobile home with ~~another~~ any other manufactured, modular, or
6 mobile home containing no more than the original number of
7 dwelling units, or a replacement of a preexisting site-built
8 dwelling unit with a manufactured, modular, or mobile home or
9 site-built dwelling unit, within a manufactured home community
10 or a mobile home park, the board of supervisors shall not adopt
11 or enforce any ordinance, regulation, or restriction, or impose
12 any conditions on the replacement home that were not required
13 of the preexisting home, that would prevent the continuance of
14 the property owner's lawful nonconforming use that had existed
15 relating to the preexisting home ~~unless any of the following~~
16 apply.

17 b. Paragraph "a" does not apply if any of the following
18 conditions exist:

19 a. (1) ~~A discontinuance is necessary for~~ The replacement of
20 the particular home would result in an increased risk to the
21 safety of life or property.

22 b. (2) The property owner has discontinued and abandoned
23 the nonconforming use ~~has been discontinued~~ for the period
24 of time established by ordinance, unless such discontinuance
25 is caused by circumstances outside the control of the
26 property owner. The period of time so established shall be
27 not less than one year. For purposes of this subparagraph,
28 circumstances outside the control of the property owner
29 include floods, fires, destructive thunderstorm events such
30 as derechos and tornadoes, and similar catastrophic events
31 causing widespread or localized severe property damage. For
32 purposes of this subparagraph, a property owner shall not be
33 considered to have discontinued and abandoned the nonconforming
34 use if the property owner demonstrates that the applicable home
35 site continues to be available for use as a home site for a

1 replacement home.

2 ~~c.~~ (3) The replacement results in the overall nature and
3 character of the present use being substantially or entirely
4 different from the original lawful preexisting nonconforming
5 use.

6 ~~d.~~ (4) The replacement results in an obstruction to a
7 shared driveway or shared sidewalk providing vehicular or
8 pedestrian access to other homes and uses unless the property
9 owner makes modifications to such shared driveway or sidewalk
10 that extinguishes such obstruction or the effects of such
11 obstruction.

12 Sec. 2. Section 414.1, subsection 1, paragraph c, Code 2021,
13 is amended to read as follows:

14 c. (1) ~~When~~ Except as provided in subparagraph (2), when
15 there is a replacement of a preexisting manufactured, modular,
16 or mobile home with ~~another~~ any other manufactured, modular,
17 or mobile home containing no more than the original number of
18 dwelling units, or a replacement of a preexisting site-built
19 dwelling unit with a manufactured, modular, or mobile home or
20 site-built dwelling unit, within a manufactured home community
21 or a mobile home park, the city shall not adopt or enforce
22 any ordinance, regulation, or restriction, or impose any
23 conditions on the replacement home that were not required of
24 the preexisting home, that would prevent the continuance of
25 the property owner's lawful nonconforming use that had existed
26 relating to the preexisting home ~~unless any of the following~~
27 ~~apply.~~

28 (2) Subparagraph 1 does not apply if any of the following
29 conditions exist:

30 ~~{1}~~ (a) ~~A discontinuance is necessary for~~ The replacement
31 of the particular home would result in an increased risk to the
32 safety of life or property.

33 ~~{2}~~ (b) The property owner has discontinued and abandoned
34 the nonconforming use has been discontinued for the period of
35 time established by ordinance, unless such discontinuance is

1 caused by circumstances outside the control of the property
 2 owner. The period of time so established shall be not less
 3 than one year. For purposes of this subparagraph division,
 4 circumstances outside the control of the property owner
 5 include floods, fires, destructive thunderstorm events such as
 6 derechos and tornadoes, and similar catastrophic events causing
 7 widespread or localized severe property damage. For purposes
 8 of this subparagraph division, a property owner shall not be
 9 considered to have discontinued and abandoned the nonconforming
 10 use if the property owner demonstrates that the applicable home
 11 site continues to be available for use as a home site for a
 12 replacement home.

13 ~~{3}~~ (c) The replacement results in the overall nature and
 14 character of the present use being substantially or entirely
 15 different from the original lawful preexisting nonconforming
 16 use.

17 ~~{4}~~ (d) The replacement results in an obstruction to a
 18 shared driveway or shared sidewalk providing vehicular or
 19 pedestrian access to other homes and uses unless the property
 20 owner makes modifications to such shared driveway or sidewalk
 21 that extinguishes such obstruction or the effects of such
 22 obstruction.

23 EXPLANATION

24 The inclusion of this explanation does not constitute agreement with
 25 the explanation's substance by the members of the general assembly.

26 This bill relates to the regulation by counties and cities
 27 of continuing nonconforming uses of manufactured, modular, and
 28 mobile homes and site-built dwelling units.

29 Current law prohibits a county or city from adopting
 30 or enforcing any ordinance, regulation, or restriction
 31 that would prevent the continuance of a property owner's
 32 lawful nonconforming use that had existed for a preexisting
 33 manufactured, modular, or mobile home that is being replaced
 34 by another manufactured, modular, or mobile home containing
 35 no more than the original number of dwelling units, or a

1 preexisting site-built dwelling unit that is being replaced
2 with a manufactured, modular, or mobile home or site-built
3 dwelling unit, within a manufactured home community or a mobile
4 home park. In addition to the current prohibitions, the bill
5 prohibits a county or city from imposing any conditions on the
6 replacement home that were not required of the preexisting home
7 that would prevent the continuance of a lawful nonconforming
8 use.

9 Current law provides four exceptions to the prohibitions,
10 two of which the bill amends. One exception is if a
11 discontinuance is necessary for the safety of life or property.
12 The bill instead states that the prohibitions do not apply
13 if the replacement of a particular home would result in an
14 increased risk to the safety of life or property.

15 The second exception is if the nonconforming use has been
16 discontinued for the period of time established by ordinance,
17 unless such discontinuance is caused by circumstances outside
18 the control of the property owner. The bill specifies that
19 this exception applies if the property owner has discontinued
20 and abandoned the nonconforming use. The bill provides
21 examples for when a discontinuance is caused by circumstances
22 outside the control of the property owner. The bill also
23 states that a property owner shall not be considered to
24 have discontinued and abandoned the nonconforming use if
25 the property owner demonstrates that the applicable home
26 site continues to be available for use as a home site for a
27 replacement home.